

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0620P

Use Tax

Calendar Years 1994, 1995, and 1996

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated January 19, 1998 protested the penalty assessed for failure to accrue use tax on clearly taxable items.

Taxpayer is an Indiana registered retail merchant incorporated in Delaware on January 1, 1946 engaged in the business of manufacturing. Taxpayer was previously audited by the department on September 18, 1992.

I. Tax Administration - Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in remitting use tax due.

Upon audit it was discovered that the taxpayer failed to self assess and remit use tax due for the purchase of publications, rental of equipment, managerial, sales, non-operational supplies, transportation equipment and other miscellaneous items.

Taxpayer was previously audited with the same items in contention and should have made corrections to its reporting the use tax.

Taxpayer states it misinterpreted the sales and use tax regulations regarding material handling equipment used in pre-production activities which has since been corrected. In addition employee turnover impacted the consistency of applying the sales and use tax regulations and during 1997, updated internal guidelines were generated and reviewed with the responsible individuals. Based upon these circumstances and the corrective action taken during 1997, taxpayer requests the penalty be waived.

Taxpayer was previously audited and failed to take corrective measures until the current audit was in progress and the issues were issues in the prior audit.

The department finds no reasonable cause exists, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.